

Section 125, Title 14, CCR is amended to read:

§125. Commercial Rock Crab Permits.

(a) Permit Required for Take Using Trap Gear.

Effective April 1, 2005, any person using traps to take, possess aboard a vessel, use as bait, or land rock crab, as defined in Fish and Game Code section 8275(c), (*Cancer antennarius*, *C. anthonyi*, or *C. productus*) for commercial purposes shall have a valid general trap permit issued pursuant to Fish and Game Code Section 9001 and either a northern or southern rock crab trap permit as described in this Section that has not been suspended or revoked.

(1) Presence of Permit Holder Aboard a Vessel. At least one rock crab trap permit holder shall be on board at all times when taking, possessing aboard a vessel, using as bait, or landing rock crab using trap gear. If a support vessel is used, a rock crab trap permit holder shall be on each vessel when taking rock crab.

(A) Any person pulling or raising rock crab traps or receivers bearing a commercial fishing license number other than his/her own shall have in his/her possession from the permit holder assigned to said gear written permission to pull the traps and shall possess a valid northern rock crab trap permit or a southern rock crab trap permit depending on which area the traps are set as defined in Sections 125 (c)(1) and (2).

(2) Crewmembers. Any licensed commercial fisherman working on a vessel utilizing commercial rock crab trap gear shall possess a valid general trap permit that has not been suspended or revoked. Crewmembers are not required to hold a rock crab trap permit.

(3) Fishermen holding lobster operator or crewmember permits issued pursuant to Fish and Game Code Section 8254 and Section 122, Title 14, CCR, taking rock crab incidentally as authorized in Fish and Game Code Section 8250.5 during the lobster fishing season specified in Fish and Game Code Section 8251 and in lobster trap gear as defined in Fish and Game Code Section 9010, are exempt from the rock crab trap permit requirements of this Section.

(4) Exemption from Tidal Invertebrate Permit. Tidal Invertebrate permits issued pursuant to Section 123, Title 14, CCR, are not required for the commercial take of rock crab.

~~(5)~~(4) Revocation or suspension. A northern or southern rock crab trap permit may be revoked or suspended by the commission upon violation of the Fish and Game Code, or violation of regulations adopted by the Commission, by the holder thereof, his or her agent, employee, or person acting under his or her direction and control.

(b) Permit Conditions.

(1) Commercial rock crab trap permits are issued conditional upon all provisions of the Fish and Game Code and regulations of the Fish and Game Commission relating to crabs and traps.

(2) Pursuant to Fish and Game Code Section 9005, every trap or string of traps deployed for purposes of commercially harvesting rock crab shall be marked with a buoy.

(3) Timed buoy release mechanisms capable of submerging a buoy attached to a trap, commonly known as "pop-ups," shall not be used on buoy lines attached to rock crab traps, and shall not be possessed by any commercial rock crab trap permittee on any vessel while taking or attempting to take rock crab.

(c) Permit Areas.

(1) The northern rock crab trap permit is required only in ocean waters between 42° 00' N. lat. (the Oregon/California border) and 36° 00' N. lat. (at Lopez Point, Monterey County).

(2) The southern rock crab trap permit is required only in ocean waters south of 36° 00' N. lat. (at Lopez Point, Monterey County).

(d) Northern Rock Crab Trap Permit Issuance.

(1) ~~A person~~An individual is eligible to purchase a northern rock crab trap permit if ~~the individual~~he or she meets all of the following criteria:

(A) ~~the individual must be~~is a licensed commercial fisherman; and

(B) ~~the individual must possess~~possesses a valid general trap permit, issued pursuant to Fish and Game Code Section 9001, that has not been suspended or revoked; and

~~(C)(2) To apply for a permit, each year the eligible individuals must shall submit to the department the application indicated in, and fee specified in Section 705 - a northern rock crab trap permit application form DFG 1375 (6/04), which is incorporated by reference herein, and the annual permit fee specified in subsection (f).~~

(e) Transferable Southern Rock Crab Trap Permit Issuance.

(1) 30 calendar days after the effective date of these regulations, each individual possessing a valid southern rock crab trap permit that has not been suspended or revoked shall have his or her permit designated by the department as a transferable southern rock crab trap permit. The permit holder may apply to transfer that permit to another person who possesses a valid commercial fishing license issued pursuant to Section 7852 of the Fish and Game Code that has not been suspended or revoked, and a valid general trap permit issued pursuant to Section 9001 of the Fish and Game Code that has not been suspended or revoked. Transfer applications shall be completed by the permit holder, or the estate of a deceased permit holder.

(2) The application to transfer a southern rock crab trap permit shall be in the form of a notarized letter from the existing permit holder or the permit holder's estate that identifies the transferee, and shall include the original or a copy of the transferable southern rock crab trap permit, a copy of the transferee's commercial fishing license and general trap permit, and the permit transfer fee specified in Section 705. The application shall be submitted to the department's License and Revenue Branch, 1740 N. Market Boulevard, Sacramento, CA 95834. Subject to the limitations described in subsection (e)(3), each eligible transferee shall be issued a southern rock crab trap permit that is valid for the remainder of the current permit year. The transferee may renew the southern rock crab trap permit in subsequent years pursuant to subsection (f).

(3) Not more than five (5) southern rock crab trap permits shall be transferred by the department during each permit year (April 1 – March 31). Applications shall be processed in the order received in a permit year. Applications and transfer fees received after the annual limit of five (5) permit transfers has been reached shall be returned to the applicants. Applicants may resubmit their application on or after the first day of the following permit year for consideration. If on any given day the number of applications received is greater than the number of available transfers, the department shall conduct a manual drawing to determine which application(s) shall be processed.

(4) The transfer limit imposed by this subsection shall not apply in the event of the death of a permit holder. The estate of the decedent may transfer the valid permit pursuant to subsection (e)(2) not later than two (2) years from the date of death of the permit holder as stated on the death certificate.

~~(f)(e)~~ Southern Rock Crab Trap Permit Issuance-Renewal.

~~(1) Initial Permit Issuance. During the 2005-2006 permit year, any person is eligible for initial issuance of a southern rock crab trap permit if the individual meets all of the following criteria:~~

~~(A) the individual must be a licensed commercial fisherman; and~~

~~(B) the individual must possess a valid general trap permit, issued pursuant to Fish and Game Code Section 9001, that has not been suspended or revoked; and~~
~~(C) the individual must have landed a minimum of 500 pounds of rock crab utilizing trap gear between January 1, 1998 and December 31, 2003 at ports located within the southern permit area as defined in subsection (c), and as documented by fish landing receipts submitted to the department in the individual's name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046.~~

~~Individuals who hold a Nearshore Fishery Trap Endorsement issued pursuant to Section 150.03, Title 14, CCR, are exempt from this eligibility requirement.~~

~~(D) Application Deadlines for Southern Rock Crab Trap Permit. A southern rock crab trap application form DFG 1324(6/04), which is incorporated by reference herein, and the annual permit fee specified in subsection (f) must be received by the department or, if mailed, must be postmarked on or before September 30, 2005. Applications for initial issuance of a southern rock crab trap permit received by the department, or, if mailed, postmarked from October 1 through October 31, 2005 will be assessed a \$50 late fee. Applications and permit fees for initial issuance of southern rock crab trap permits received, or, if mailed, postmarked after October 31, 2005 shall be returned to the applicant unissued.~~

~~(1)(2) Southern Rock Crab Trap Permit Renewal. Southern rock crab trap permits must shall be renewed annually.~~

~~(2) An individual is eligible to apply for renewal of a southern rock crab trap permit if he or she meets the following criteria:~~

~~(A) Beginning with the 2006-2007 permit year, only persons who held a valid southern rock crab trap permit during the immediately preceding permit year are eligible to obtain a permit for the following permit year. The individual is a licensed commercial fisherman;~~

~~(B) The individual possesses a valid general trap permit issued pursuant to Fish and Game Code Section 9001 that has not been suspended or revoked; and~~

~~(C) The individual either held a valid southern rock crab trap permit during the immediately preceding permit year, or was issued a transferable southern rock crab trap permit pursuant to subsection (e).~~

~~(3) To apply for a permit, each year eligible individuals shall submit to the department the renewal application indicated in and fee specified in Section 705.~~

~~(4)(B) All renewal applications indicated in and permit fees specified in Section 705 for renewal of a southern rock crab trap permit shall be received by the department, or, if mailed, postmarked on or before April 30 of each year. Late fees, and late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.~~

~~(5) The eligibility requirements imposed by this subsection shall not apply in the event of the death of a permit holder. The estate of the decedent may renew the permit, for the purpose of maintaining its validity, for a period of two (2) years from the date of death of the permit holder as stated on the death certificate by contacting the department's License and Revenue Branch, 1740 N. Market Boulevard, Sacramento, CA 95834. If by the end of the two (2) year period the permit is not transferred pursuant to subsection (e)(2), the permit shall expire.~~

~~(f) Fees.~~

~~(1) Northern rock crab trap permit. The department shall charge an annual fee of two hundred and fifty dollars (\$250.00).~~

~~(2) Southern rock crab trap permit. The department shall charge an annual fee of two hundred and fifty dollars (\$250.00).~~

~~(g) Appeals.~~

~~(1) Southern Rock Crab Trap Permit Initial Issuance Appeals. Any applicant who is denied initial issuance of a southern rock crab trap permit for any reason by the department may appeal that denial to the commission in writing, describing the basis for the appeal. The appeal shall be received by the commission or, if mailed, postmarked on or before March 31, 2006.~~

~~(2) Southern Rock Crab Trap Renewal Appeals. Late renewal appeal provisions are specified in Fish and Game Code Sections 7852.2 and 7858.~~

(h) Fees.

(1) Northern rock crab trap permit. The department shall charge an annual fee as specified in Section 705.

(2) Southern rock crab trap permit. The department shall charge an annual fee as specified in Section 705.

(h)(i) Restricted Access.

A control date of January 1, 2003 is established for the purpose of considering a future restricted access southern rock crab trap fishery. Landings on or after this date may not apply toward a permit in a future restricted access program for the southern rock crab trap fishery if one is developed.

~~(i) Tidal Invertebrate permits issued pursuant to Section 123, Title 14, CCR, are not required for the commercial take of rock crab.~~

(j) Landing Receipts.

All landing receipts for rock crab required pursuant to Fish and Game Code Sections 8043 and 8047 shall indicate the species of rock crab as brown, red, or yellow, describing *Cancer antennarius*, *C. productus*, or *C. anthonyi*, respectively.

Note: Authority cited: Sections 1050 and 8282, Fish and Game Code. Reference: Sections 1050, 7852.2, 7857, 7858, 8043, 8047, 8250.5, 8275, 8282, 8284, 9000, 9001, 9002, 9005, 9006 and 9011, Fish and Game Code.

Section 125.1, Title 14, CCR is amended to read:

§125.1. Commercial Take of Rock Crab; Size Limit; Use of Rock Crab as Bait; Incidental Take Provisions.

(a) Rock crab, as defined in Fish and Game Code section 8275(c), less than 4 1/4 inches, measured across the carapace in a straight line through the body, from edge of shell to edge of shell at the widest part, shall not be taken, possessed, bought, sold, or used as bait.

(b) Measuring requirements. Any person taking rock crab for any commercial purpose or for use as bait shall carry a measuring device and shall measure any rock crab immediately. Undersized rock crab shall be immediately returned to the water.

(c) Incidental take. Only the following species may be taken incidentally in rock crab traps being used to take rock crab under authority of a permit issued pursuant to Section 125. All other invertebrates and finfish shall be immediately released to the water.

(1) Kellet's whelk.

(2) Octopus.

(3) Crabs, other than the genus *Cancer*.

(d) Pursuant to Fish and Game Code Section 9001.7, rock crab may be used as bait in finfish traps. However, consistent with Fish and Game Code Section 5508, rock crab may not be possessed or maintained in such a condition that their size cannot be determined. Additionally, consistent with Fish and Game Code Section 5509, rock crab may not be possessed or maintained in such a condition that the species cannot be readily identified.

(1) All rock crabs shall be brought ashore and accounted for on a landing receipt pursuant to Fish and Game Code Sections 8043 and 8047 prior to being used as bait. The total pounds of all three species of rock crab to be used as bait from each landing shall be recorded in the space marked "Note Pad" on the landing receipt.

(2) Rock crabs used as bait in finfish traps as described in subsection (d) above shall be documented on board the fishing vessel by a copy of the landing receipt pursuant to Fish and Game Code Sections 8043 and 8047 demonstrating that the crab to be used as bait has been landed prior to being used as bait. Copies of all landing receipts which document the catch of rock crabs that are used as bait shall be kept onboard the fishing vessel for a minimum period of 30 calendar days from the date of landing as listed on the landing receipt.

Note: Authority cited: Section 8282, Fish and Game Code. Reference: Sections 8043, 8047, 8250.5, 8275, 8281, 8284, 9001.7 and 9011, Fish and Game Code.